

1 to introduce yourself and your experience with  
2 Title V before going in. You will be limited to  
3 15 minutes. I'll give you a two-minute warning  
4 when it comes up.

5 And for the task force here, I'm using  
6 full names or trying to for the benefit of the  
7 court reporter, just so we get -- she knows who is  
8 asking questions.

9 Thank you.

10 MR. METZGER: Thank you. Thanks, Bill. I  
11 was here this morning.

12 My name is John Metzger. I'm with the  
13 3M Company in St. Paul, Minnesota. I'm with the  
14 corporate environmental operations group there. I  
15 have broad responsibility across all of 3M's U.S.  
16 manufacturing operations for, I guess I would  
17 call, all things air regulations related, whether  
18 it be Title V operating permits, MACT standards,  
19 so on and so forth.

20 I've been directly involved with every  
21 one of the 31 operating permits that have been  
22 issued to 3M manufacturing facilities, and I'm  
23 also currently involved with the 15 additional  
24 Title V permits that are teed up by various

1       permitting authorities across the country.

2               We will be submitting separate written  
3       comments within the next couple of weeks. I  
4       wanted to focus on a couple points here.  
5       Obviously in the interest of time, again, we'll  
6       have more to -- more to say in a couple weeks in  
7       writing.

8               As a general matter, we support the  
9       Title V operating permit program and believe that  
10      it is a workable basis for establishing the  
11      obligations of a manufacturing facility under its  
12      applicable air pollution rules and establishing  
13      these in a manner which is understandable to both  
14      the permittee and also to the general public. We  
15      appreciate the efforts of this team.

16              We think it's -- it is very welcome,  
17      but -- and we especially appreciate the efforts  
18      that have been expended by any number of the  
19      permitting authorities across the country,  
20      generally in the face of limited budgets, efforts  
21      to improve their Title V operating permit programs  
22      to realize their full potential.

23              We believe, however, that there is much  
24      work that needs to be done in order for the

1 Title V operating permit program to deliver fully  
2 on what we believe is its promise for capturing  
3 all applicable requirements for a facility, but  
4 also doing this in a way which does not create  
5 needless impediments to efficient manufacturing  
6 and related economic activity.

7 So first, we believe that EPA should  
8 encourage permitting authorities, possibly through  
9 rule-making, to write flexible Title V permits for  
10 performance track members. We're at a time  
11 obviously of just utterly unprecedented global  
12 competition, and we believe that being able to  
13 make rapid manufacturing changes is crucial to the  
14 viability of any number of industries, and  
15 including the continuation of benefits that attend  
16 those industries, such as jobs and tax revenues  
17 and so forth.

18 So as such, 3M has participated with EPA  
19 and several state permitting authorities in a  
20 number of pilot projects designed to provide  
21 greater flexibility to manufacturing facilities  
22 through Title V operating permits and with no  
23 reduction in protection to the environment.

24 An important feature of the flexible

1       permits that -- of these type of flexible permits  
2       have been incentives for meeting emission  
3       standards through the use of pollution prevention  
4       techniques. Some of the flexible permits have  
5       accomplished direct alignment of P2, pollution  
6       prevention, and business interests; that is,  
7       creating permit terms wherein as the business  
8       prosper, the emissions per unit of product made  
9       are very likely to decrease.

10               And direct alignment of P2 and business  
11       interests tends to be a natural fit for industries  
12       that participate in these rapidly changing and  
13       highly competitive global markets. Such  
14       industries are typically driven continuously by  
15       the marketplace to reduce the resource content of  
16       their products. Reductions in raw materials, in  
17       scrap, or in energy usage all reduce resulting  
18       emissions from making a unit of the product.  
19       Often such changes also significantly reduce the  
20       total quantity of emissions, not just the  
21       emissions per unit of product; such as, for  
22       example, in the case where, say, a coating  
23       operation is reformulated from using organic  
24       solvent to using water-based or low VOC solvent.

1                   In 2001 EPA's Office of Air Quality  
2           Planning and Standards in partnership with EPA's  
3           Office of Policy, Economics, and Innovation  
4           conducted its flexible permit implementation  
5           review, a formal review which was supported by  
6           EPA's Office of Policy Analysis and Review, Office  
7           of General Counsel, and EPA's Office of  
8           Enforcement and Compliance Assurance -- OECA.

9                   Six flexible permits issued since 1993  
10          were considered in depth by this team, including  
11          by performing site visits and detailed interviews  
12          with the permitting authority, the permittee, and  
13          other stakeholders.

14                  In a memorandum of transmittal of  
15          December of 2002, Mr. Robert Brenner, deputy  
16          assistant administrator, Office of Air and  
17          Radiation, reported very positive findings of this  
18          study, and I quote:

19                  "We are very pleased with the positive  
20          findings that arose out of this effort.  Namely,  
21          the report has produced clear, objective evidence  
22          that flexible permits assure compliance with all  
  
23          applicable requirements, can produce valuable  
24          benefits to all parties, including in many cases

1       significant emission reductions, and are  
2       considered to be fully enforceable."

3               In response to the comments that EPA  
4       received on draft White Paper #3, which included  
5       techniques for writing flexible permits, and in  
6       part based on the -- on the pilot projects, it is  
7       our understanding that rule-making is in the  
8       works. And 3M strongly supports this effort and  
9       believes it to be part and parcel to an overall  
10      resolution of a number of longstanding issues with  
11      the Title V operating permit program.

12             Lastly on this point, 3M believes  
13      strongly that access to flexible permits should be  
14      restricted to companies or manufacturing  
15      facilities who have a demonstrated commitment to  
16      the environment -- a track record, that is -- and  
17      an ability to operate under such permits. In  
18      particular, we believe that an appropriate measure  
19      of this is membership in EPA's performance track  
20      program.

21             Secondly, the permitting authorities  
22      must not place permit holders in needless or  
23      unavoidable compliance jeopardy through poorly  
24      written permit terms. This is what I call the

1       other side of the compliance certifications. We  
2       think it's an important feature of Title V  
3       operating permit program to having the annual  
4       compliance certification.

5               We generally support this aspect of  
6       these permits because it assures that all permit  
7       holders will be meeting their requirements. It  
8       also helps to assure that companies -- that other  
9       companies will not receive a competitive advantage  
10      by not meeting their requirements, and we think  
11      that in some cases this may have been the case  
12      prior to Title V operating permits.

13             But the Title V compliance  
14      certifications also create an important obligation  
15      for the permitting authorities, we believe;  
16      ambiguous permit terms or terms which contradict  
17      terms elsewhere in the permit are terms which have  
18      no direct basis in any applicable rule or which  
19      cannot even be met as a practical matter. All of  
20      this can unintentionally create compliance  
21      jeopardy for the permit holder through the  
22      mechanism of the compliance certification.

23             So the very existence of the compliance  
24      certification virtually obligates, we believe, the

1       permitting authority to write permits that are  
2       very well written, absent of the characteristics  
3       -- some of the characteristics that I just  
4       mentioned. Unfortunately, we've seen the opposite  
5       in too many cases.

6               Two common sources of ambiguity that I  
7       want to speak to further here are -- one are the  
8       general conditions that often appear in Title V  
9       operating permits, and the other one is how  
10       MACT standards are written into Title V operating  
11       permits. In a number of instances, we found  
12       general conditions of Title V permits to contain  
13       terms which seemed to come from an earlier  
14       regulatory era or seemed to be artifacts from  
15       previous state permitting programs.

16              One example of such are that we have run  
17       into a number of cases of general conditions which  
18       require that all deviations of the permit be  
  
19       reported within some very short period of time,  
20       usually something 24 hours or less, a condition  
21       that was quite likely very appropriate for  
22       purposes of a single construction permit or  
23       operating permit focusing on a single piece of  
24       equipment. But we believe that much of what is

1       required by such a term is, first of all,  
2       unworkable because for one thing, the term  
3       deviation is usually not defined. What does it  
4       mean that any deviation whatsoever needs to be  
5       reported within 24 hours?

6               In a number of cases, we've had  
7       situations where permitting authorities, we have  
8       begun to actually follow exactly what was  
9       requested, and that because of the very detailed  
10      nature of the permits, that very nominal  
11      departures were being reported within 24 hours  
12      several times a week. Permitting authority  
13      responded by saying, "Please, please don't call  
14      us. Include this information as otherwise  
15      required by the permit in the semiannual  
16      monitoring report, as well as in the -- as well as  
17      in the annual compliance certification."

18             That said, I'm not discounting the need  
19      for certain types of departures to be reported  
20      within very short order to permitting authority,  
21      but I'm referring to a case of a very broad  
22      statement of this sort.

23             Now, we've had permitting authorities in  
24      these types of cases be very reluctant to revise

1       these sorts of conditions. They have -- in some  
2       cases, they've, we believe, have dismissed what we  
3       believe is the seriousness of how some of these  
4       requirements are structured. Sometimes it's said,  
5       "Jeez, everybody's permit in the state is going to  
6       have this. Why should yours be different?" Or  
7       they have said in some cases that if they were to  
8       change even a single word of the general  
9       conditions, that would have to be done only by  
10      some sort of elaborate rule-making exercise within  
11      the agency.

12               But we believe that these -- all  
13      requirements must be met in the permit, and,  
14      again, with the compliance certifications believe  
15      that puts a very key obligation on not only the  
16      permittee, but also puts a key obligation on the  
17      permit writers also.

18               Next and lastly is that the -- we  
19      believe the detailed terms of applicable MACT  
20      standards should not be delineated in a Title V  
21      operating permit. Some of this speaks to the  
22      points that the previous speaker made. We believe  
23      that MACT standards, in all of their complexity,  
24      can be especially fertile ground for terms

1 creeping into a permit which put a -- a facility  
2 in unintended legal jeopardy, "unintended" meaning  
3 that the permit authority has gotten something  
4 wrong in the permit through the transcription of  
5 all the material from a MACT standard into the  
6 permit.

7           Again, we're not saying that it's  
8 intentional. We're saying that it is a reflection  
9 of the complexity of these MACT standards, that we  
10 don't believe that it makes sense to try and  
11 replicate them, either verbatim or in any sort of  
12 detailed way within a Title V operating permit.

13           One example I'd like to cite is the  
14 paper and other web coating MACT found at 40 CFR  
15 63, subpart 4(j). It applies to many 3M  
16 manufacturing facilities. The MACT has been  
17 written by EPA to encourage and reward the use of  
18 pollution prevention to reduce HAP emissions, and  
19 that's an approach we think that is appropriate  
20 and also fits very nicely with how we've attempted  
21 to approach these things over more than 20 years.

22           The rule provides four compliance  
23 options, several of which rely in some way on  
24 pollution prevention. And the rule also allows

1       that the permittee, or actually, pardon me, the  
2       affected source be able to switch between these  
3       options from one month to the next.

4               We've had a number of instances where a  
5       permitting authority has come to us as part of the  
6       Title V permitting process and said, "Which of the  
7       four options will you be following, so that we can  
8       write this into your permit?"

9               Well, that is a fundamental  
10       misunderstanding of how the rule is written -- how  
11       the rule is written, which has also been affirmed  
12       by OECA in a number of cases, and we believe that  
13       it is not -- that it is a measure, again, of the  
14       complexity of these rules. That how can a  
15       permitting authority possibly be expert on all the  
16       many MACTs that are out there, and to a point  
17       where these can be written into Title V operating  
18       permits in a way that there are no errors or  
19       nothing of that sort.

20              I would also add that 3M is aware in a  
21       different instance where a permitting authority  
22       hired a contractor to write a template for permit  
23       language for a certain MACT standard. The  
24       intention was that they would be able to take that

1       template and pick and choose and fit according to  
2       the circumstances of the permittee.

3               In this case it was interesting. What  
4       the contractor came back with was actually  
5       verbatim language, minus the citations, with the  
6       artificial citations that would fit the permitting  
7       authorities program.

8               So, again, we strongly recommend that  
9       Title V -- or that MACT standards be cited in  
10      permits, and nothing more than the highest-level  
11      requirements be worked into the Title V permit.

12              That's all I have. Thank you very much  
13      for the chance to speak.

14              MR. HARNETT: Okay, David Golden?

15              MR. GOLDEN: John, thanks for coming here  
16      this morning. We appreciate your taking the time.

17              Quick question about deviations. You  
18      mentioned some of the difficulty in deviation  
19      reporting; the states not necessarily wanting to  
20      get them all.

21              Are you running into -- you know, in  
22      many permits deviations are not the same as  
23      violations of a substantive standards. It's just  
24      where you set your monitoring, and you set your

1 monitoring before there would be a violation. So  
2 if you go above it, it's a deviation, but you're  
3 still within the pound per hour ton per your  
4 limit. Are those some of the things you're  
5 running into as far as the ones that the states  
6 are saying don't phone us quite so quickly?

7 MR. METZGER: That's right. But that's at  
8 odds with what their general provision may say.  
9 And I don't want to focus too much on general  
10 provisions. This is a much broader matter. But  
11 in this case that's a matter of where the general  
12 provisions says very specifically that all  
13 deviations, all departures, no definition of that  
14 term, must be reported.

15 We take it seriously that every  
16 condition of the permit has to be met, and we work  
17 closely with the permitting authorities to be  
18 certain that those conditions are written in such  
19 a way that they are not creating jeopardy for our  
20 company, which was not ever intended to have been  
21 created on the part of the permitting authority.  
22 But in a case, like with those general conditions,  
23 where the response is that, "Well, we just can't  
24 change them. That's just the way it is," that we

1 believe that that's a case that is not acceptable,  
2 that's -- it is necessary that they be changed.

3 MR. GOLDEN: So the general provision has a  
4 one-size-fits-all provision of prompt for  
5 deviation reporting purposes.

6 MR. METZGER: That's correct.

7 MR. GOLDEN: Thanks.

8 MR. HARNETT: Keri Powell?

9 MS. POWELL: My question also goes to the  
10 prompt reporting comment. You said that you  
11 actually viewed some types of deviations that are  
12 important as being worthy of a pretty quick  
13 report. I was just curious about what types of  
14 deviations you consider to be in that important  
15 category and how quickly you think that those  
16 kinds of deviations should be reported?

17 MR. METZGER: Well, what I had in mind were  
18 mainly any sort of deviation of a permit, or apart  
19 from the permit itself, any type of condition  
20 which could put the public health or environment  
21 at immediate risk. And for those types of things,  
22 we believe that it is appropriate to report as  
23 soon as it becomes known.

24 For most other things, in terms of

1 various monitoring, recordkeeping, and that type  
2 of thing, we believe that what the Title V  
3 operating permit program has in mind is that those  
4 are things -- as David mentioned, that these are  
5 things which are possibly departures or deviation  
6 from terms of the permit but don't necessarily  
7 represent -- might not rise to a level of being a  
8 violation of permit.

9 Another thing, Keri, that I would  
10 suggest that should be reported on a short-term,  
11 maybe not quite as quickly as something putting  
12 the public health or environment at risk, would be  
13 any exceedance of an emission standard and where  
14 the emission limit is exceeded.

15 MR. HARNETT: Don van der Vaart?

16 MR. VAN DER VAART: I would echo what Dave  
17 said. It's great to have you come all the way  
18 here and help us out. We like the 3M facility we  
19 have in North Carolina.

20 But the one question I've got, very  
21 simple; you do believe that the certification  
22 requires both certification of noncompliance and  
23 compliance?

24 MR. METZGER: Absolutely.

1           MR. VAN DER VAART: Thanks very much.

2           MR. METZGER: Absolutely. And we think that  
3 we would like to see there be more uniformity  
4 around this from permitting authority to  
5 permitting authority. In some cases we see very  
6 great detail guidance or requirements on the part  
7 of the permitting authority as to how this is to  
8 be done. In other cases they're totally silent.  
9 We think that more uniformity would be helpful.

10          MR. HARNETT: Bernie Paul?

11          MR. PAUL: I'm going to jump on that  
12 deviations bandwagon, too.

13                 If I understood your statement, you  
14 mentioned that in many cases you have three  
15 different times in which you're reporting  
16 deviations, or sort of this notion of a  
17 contemporaneous or prompt report of deviation;  
18 then there is one on a semiannual or quarterly  
19 report, and then the annual compliance  
20 certification.

21                 Have you evaluated what the cost of that  
22 multiple or duplicative reporting of the same  
23 incident is to your facilities, or is that  
24 something that you could provide to the task force

1 as we -- when you submit your written comments?

2 MR. METZGER: I don't know that I could  
3 provide that. We don't -- we don't track that,  
4 and I think that in most cases where this exists,  
5 that the permitting authorities have responded,  
6 sometimes in writing to us, that, jeez, even  
7 though you're -- even though a requirement says to  
8 report everything totally, that they may clarify  
9 it by written -- by letter or something of that  
10 sort saying that, "Well, by 'deviation' we don't  
11 really mean these types of things." We find that  
12 uncomfortable because, again, we take the words  
13 very seriously and think the term should be well  
14 defined.

15 But Bernie, to your point, as far as the  
16 cost of that sort of thing, there certainly is a  
17 cost. We don't track it, and it would be -- I'm  
18 afraid it would be a bit difficult for us to get  
19 to at this point.

20 MR. HARNETT: Carol Holmes?

21 MS. HOLMES: Hi. I'm going to talk about the  
22 same issue, but from another perspective.

23 I think you said that these -- part of  
24 your concern was that these exist in construction

1       permits and really don't have anything to do with  
2       the way things are being operated now. I'm just  
3       trying to parse through the issue.

4               I think Title V program gets blamed for  
5       uncovering problems that may actually exist  
6       outside of Title V, because part of what you do in  
7       Title V is look at everything that applies to the  
8       source and pull it together. It sounds to me like  
9       that's a problem with the fact that the  
10      construction permit hasn't expired, been replaced  
11      by an operating permit, so you have overlapping or  
12      duplicative requirements because you have two  
13      types of permits, not the problem -- it's not a  
14      problem of Title V. It's a problem that exists  
15      that Title V happened to uncover when you looked  
16      at everything else. Is that kind of what you're  
17      saying?

18             MR. METZGER: Well, I think it's both.  
19      Because to the extent that the Title V operating  
20      permit program is one which is going to be  
21      bringing forward conditions which are ambiguously  
22      stated, which arguably are a total disconnect with  
23      the operations because perhaps a permit engineer  
24      has made a mistake -- I don't blame a permit

1       engineer for making a mistake. We all make  
2       mistakes. But what I am referring to is that with  
3       compliance certifications now, it is an entirely  
4       new ball game.

5               So whatever the reason for information  
6       or requirements which are not a fit for the  
7       facility, it still is an obligation to certify  
8       compliance against those.

9               MS. HOLMES: But can't you fix those by going  
10       back to the underlying applicable requirement and  
11       having the mistake corrected, and then you won't  
12       have to worry about it in the Title V compliance  
13       information.

14              MR. METZGER: With one permitting authority,  
15       we had about 15 construction permits which had an  
16       error of that sort in it, and it was said that the  
17       only way that it could be remedied was to go back  
18       and reopen all 15 of those construction permits,  
19       going through a full process, including individual  
20       public notice on each one of those. There is not  
21       enough money; there is not enough money to go  
22       through a process like that, which would probably  
23       take several years anyway.

24              We believe in some of the tenets brought

1 forward, I believe either White Paper #1 or 2, I  
2 believe it's in one saying that the Title V  
3 operating permit program should provide a good  
4 opportunity for redressing things which are either  
5 badly written conditions, mistakes, or things of  
6 those sort. Certainly there are different  
7 understandings as far as what type of legal  
8 regulatory mechanism must be followed in order to  
9 pull that off.

10 To the extent that these things are  
11 pulled forward, it really, at the point that it's  
12 in the Title V permit, it's almost like it doesn't  
13 matter what the reason is for being poor  
14 information. It still has -- it still has to be  
15 certified against, so it takes on -- the  
16 certifications are great, but it also then causes  
17 the information in the permit to take on a life of  
18 its own, independent of pretty much where this  
19 information is going.

20 Enforcement inspector generally is not  
21 going to be terribly interested in whether or not  
22 a permit term is a mismatch for a facility because  
23 an error had been made in a permit that was  
24 brought forward into the Title V.

1           MS. HOLMES: Right. And this is my last  
2           comment. But from the enforcement office, that  
3           would be my perspective with or without Title V.  
4           I mean, if there is a problem in another line  
5           permit that you need to get fixed and not hope  
6           that nobody notices it, you know, if you didn't  
7           have Title V. But I understand. But I understand  
8           what you're saying about the compliance  
9           certification adds a layer to this.

10          MR. METZGER: Well, under previous  
11          circumstances, sometimes it was understood by the  
12          company and the agency that there is a problem  
13          here, that this is something that has not -- an  
14          error has been made, and that would be resolved  
15          perhaps by exchanging letters or something of that  
16          sort. It's saying that in a perfect world this  
17          thing would be open, it would be changed. The  
18          permitting authority is acknowledging that they  
19          made a mistake. I'm not picking on permitting  
20          authorities. We make our own mistakes.

21          MS. HOLMES: I understand.

22          MR. METZGER: But at the same time that,  
23          however, you were not doing a certification  
24          against that document every year, as you are with

1 a Title V operating permit.

2 MS. HOLMES: Okay, thank you.

3 MR. METZGER: So we are much more skittish,  
4 in fact, about any off-permit understandings or  
5 anything of that sort. We don't believe they're  
6 appropriate. We think that the words of the  
7 permit should get it right.

8 MS. HOLMES: Thank you.

9 MR. HARNETT: John Higgins?

10 MR. HIGGINS: Could you give me a specific  
11 example of what you mean when you talk about a  
12 flexible Title V permit?

13 MR. METZGER: Well, by flexible Title V  
14 operating permit, I have mainly in mind the pilots  
15 that have been performed under the P4 program,  
16 pollution prevention and permitting program by  
17 EPA, and we've been involved in several of those.

18 In a nutshell what those have involved  
19 is -- are preapproved projects whereby various  
20 changes to the manufacturing facility which could  
21 reasonably occur during the term of the permit,  
22 that those configurations of the manufacturing  
23 facility are approved in advance, as part of  
24 issuance of the Title V permit, and it includes,

1       then, the entire list of all requirements that  
2       would attend those.

3               In some ways it's like changing the  
4       order of some of these things, rather than coming  
5       in with a -- with an application for the change in  
  
6       manufacturing operation two years from now and  
7       having all the obligations sorted through and put  
8       into the permit, rather than doing that two years  
9       from now, it is done at the time that the permit  
10      is issued up-front, knowing that it's not  
11      guaranteed but there is a very high likelihood  
12      that a change of that sort is going to be  
13      occurring at the facility within the next five  
14      years.

15             There is all sorts of safeguards that  
16      are included in that in the way of notifications  
17      and so forth, and we also say, again, that we  
18      believe it's very important that such permits be  
19      issued only to facilities which have a proven  
20      track record and a demonstrated ability to  
21      administer such a permit.

22             We find these to be invaluable because,  
23      again, the -- the time to market is just -- is  
24      absolutely critical, absolutely critical. Not in

1 every industry, but it is certainly in a very  
2 large number of the ones in which we compete.

3 MR. HARNETT: Shannon Broome?

4 MS. BROOME: Thanks.

5 Mr. Metzger, I just have a quick  
6 follow-up on the compliance certification comment  
7 you made.

8 If you have a situation where you're not  
9 sure what your compliance status is -- for  
10 example, an incinerator where there is indicator  
11 monitoring of a temperature that was during a  
12 performance test, but you drop a few degrees --  
13 you were not suggesting that you're required to  
14 certify noncompliance unless that temperature  
15 limit is a requirement; correct?

16 MR. METZGER: That is correct. I mean, we  
17 think that in a lot of cases there's not good  
18 definition around these terms of deviation,  
19 noncompliance, violation, and so forth. And even  
20 in cases we've seen where attempts have been made  
21 to clarify that, that it's -- has often remained  
22 confusing.

23 In our compliance certifications, we try  
24 to approach those from the standpoint of maximum

1 disclosure of information. So that in some cases  
2 we will believe that something does not  
3 represent -- I mean, you fill in whatever term you  
4 like; violation, noncompliance, deviation,  
5 excursion, whatever. But in any case we want to  
6 make sure that if any sort of departure whatsoever  
7 from the permit has occurred, that as a minimum  
8 that that information is reported in the permit.  
9 And, of course, we'll take a position in our  
10 submittal as far as what we believe is a  
11 significance and how we're attending to that and  
12 so forth.

13 MS. BROOME: Or if you don't know, you may  
14 just say you don't know. And you're not  
15 suggesting that you should be forced to  
16 characterize that as noncompliance.

17 MR. METZGER: Oh, absolutely not.

18 MS. BROOME: Right. Thank you.

19 MR. HARNETT: One last question. Kelly  
20 Haragan?

21 MS. HARAGAN: I also had a question about the  
22 compliance certification. I know you said they're  
23 valuable. I'm curious about the type of  
24 certification you're used to filling out, if it's

1 a generic certification, where you just list  
2 noncompliance, or if it's actually a list of all  
3 your requirements where you have to certify each  
4 one. And if it's the more generic form, do your  
5 companies go ahead and develop their own lists  
6 when they're determining how to certify?

7 MR. METZGER: We operate in about 35 states,  
8 and I see everything from total silence on what  
9 these things should look like; in some of those  
10 cases, we see submittals which consist of, like,  
11 one paragraph saying that we're meeting everything  
12 we're supposed to meet. You know, I hereby  
13 certify this and so forth. All the way to the  
14 point of every single obligation in the permit  
15 being listed out with the requirement to state,  
16 you know, were you in continuous or noncontinuous  
17 compliance or, you know, whatnot.

18 We think that -- we believe that that  
19 goes a bit too far, that that turns into an  
20 exercise for both the company and also for the  
21 permitting authorities that is just more  
22 resource-intensive than what is justified by what  
23 is going on. We think that line-by-line  
24 certification of certain key things, such as the

1 emissions standards and whatnot, would be  
2 appropriate.

3 That said, I still recognize our need to  
4 be in compliance at all times with every term of  
5 the permit and think that whether this is line by  
6 line or is stated in a much broader way, that in  
7 either case the -- in either case the effect  
8 should be the same.

9 Let me add that in those circumstances  
10 where we are in states where we are required to  
11 submit just a broad statement, it generally  
12 amounts to, you know, identifying those things  
13 which were not met. That for all of our Title V  
14 operating permits, we capture every individual  
15 requirement of that permit, including the generic  
16 requirements and so forth into a database and  
17 analyze those individually so that we have a basis  
18 for being able to demonstrate to ourselves and  
19 then ultimately to an inspector or anybody else  
20 that we are in compliance with a permit, and  
21 that -- not just that we're in compliance, but  
22 also we believe there is a need to have a mastery  
23 of the permit as well.

24 MS. HARAGAN: Thanks.

1           MR. HARNETT: Thank you very much for coming  
2 here today and testifying.

3           The next person coming or speaking today  
4 will be Bruce Nilles of the Sierra Club.

5           Bruce, if you weren't here at the  
6 beginning, we just ask that you give a little  
7 background of yourself and with Title V prior to  
8 getting into your presentation. I'll give you --  
9 you have 15 minutes for your presentation, and  
10 I'll give you a two-minute warning sign when you  
11 get through the first 13.

12          MR. NILLES: Thank you.

13          MR. HARNETT: Go right ahead.

14          MR. NILLES: Thank you. Again, my name is  
15 Bruce Nilles, and I'm a senior Midwest  
16 representative for the Sierra Club.

17                 I work on primarily clean air issues in  
18 Illinois and Wisconsin. My experience working  
19 with Title V goes back about three, four years  
20 now. Back in 2000 I was one of the lead counsels  
21 challenging EPA's approval of the California's  
22 Title V program, which had a blanket exemption for  
23 all agricultural sources, regardless of the size.

24                 Since then doing a lot of work in